



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,135	01/20/2004	Christopher G. Walls	3962 P 032	8796
22908	7590	10/24/2006	EXAMINER	
BANNER & WITCOFF, LTD. TEN SOUTH WACKER DRIVE SUITE 3000 CHICAGO, IL 60606			LUGO, CARLOS	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 10/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Interview Summary	Application No.	Applicant(s)	
	10/761,135	WALLS ET AL.	
	Examiner	Art Unit	
	Carlos Lugo	3676	

All participants (applicant, applicant's representative, PTO personnel):

- (1) Carlos Lugo. (3) Gregory Schlenz.
 (2) Paul Nykasa. (4) _____.

Date of Interview: 16 October 2006.

Type: a) ☒ Telephonic b) ☐ Video Conference
 c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
 If Yes, brief description: _____.

Claim(s) discussed: 1, 11, 19, 26, 32.

Identification of prior art discussed: Allemann '494, Flinn '633, Fleming '089, Fayerman '720.


Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.



 Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments:

In a personal interview with Mr. Nykaza and Mr. Schlenz, the applicant representative, a proposal amendment to the claims was discussed (proposal amendment attached).

First, the applicant proposes to rewrite claim 19 in independent form because Flinn fails to disclose fastener for adjusting a member between angular positions. At the instant, the argument was not persuasive.

Second, the applicant proposes to amend claim 1 to include the limitations of claim 11 because Fayerman fails to disclose that the member is offset from a vertical axis. At the instant, the argument was not persuasive.

Third, the applicant argues that Fleming '089 fails to disclose an adapter adjustably connecting the handle and the member, since element 101 of Fleming is part of the thumb turn member. At the instant, the claim language does not require that the adapter is a separate member.

The applicant proposes to rewrite claim 26 so as to read like, "the member connected to an adapter, and the adapter being adjustably connected to the handle".

At the instant, this language overcomes the current rejection in view of Allemann, as modified by Fleming. However, this new limitation will require further search and/or consideration..

BANNER & WITCOFF, LTD.
INTELLECTUAL PROPERTY LAW10 SOUTH WACKER DRIVE, SUITE 3000
CHICAGO, ILLINOIS 60606TEL: 312.463.5000
FAX: 312.463.5001
www.bannerwitcoff.com

FACSIMILE TRANSMITTAL SHEET

TO: Examiner Carlos Lugo

FROM: Gregory G. Schlenz

COMPANY:
USPTO

DATE: 10/13/06

FAX NO.:
571-273-7058TOTAL NO. OF PAGES: (including cover sheet)
1+1YOUR REFERENCE NO.:
10/761, 135OUR REFERENCE (C/M) NO.:
501247.00437

RE:

If you do not receive all page(s) or have any problems receiving this transmission, please call:

NAME:

PHONE:

COMMENTS:

Summary of points to cover in Interview,
10/16/06 @ 11 a.m. EST.

Important/Confidential: This message is intended only for the use of the individual or entity to whom it is addressed. This message contains information from the law firm of Banner & Witcoff, Ltd. which may be privileged, confidential or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, retention, archiving, or copying of the communication is strictly prohibited. If you have received this communication in error, please notify us immediately at our telephone number listed above. We will be happy to arrange for the return of this message to our offices at no cost to you.

CHICAGO

WASHINGTON, D.C.

BOSTON

PORTLAND, OR

Proposed Topics for 10/16/06 Interview – Application No. 10/761,135

Examiner Carlos Lugo

Claim 19

We propose to rewrite Claim 19 in independent form. Claim 19 is patentable because the secondary reference (Flinn) only discloses a mechanism using fasteners for adjusting a member between different linear positions. No reference cited discloses using fasteners to define two different angular positions, as recited in Claim 19 and shown in FIGS. 3-7 of the Application. Note that the member first position and second position are defined as “angular” positions in Claim 1.

Claim 11

We propose to amend Claim 1 to include the limitations of Claim 11. Claim 11 is patentable because Fayerman does not teach having a member offset from a vertical axis. The member (30) of Fayerman is symmetrical and thus has multiple definable orientations. One could say that the member (30) of Fayerman is a diamond shaped member that is aligned with the vertical axis. In contrast, as shown in FIGS. 3, 4, and 6 of the Application, the claimed member has a clearly definable orientation, which is offset from the vertical axis.

Claim 26

Claim 26 is patentable because the secondary reference (Fleming) does not show an adjustable adapter. The alleged adapter (101) of Fleming is disclosed to be a portion of the thumb turn body (Col. 7, Lines 55-59), and thus, is not adjustable in any way. In contrast, Claim 26 recites that the adapter “adjustably connect[s] the handle and the member.” This is also shown in FIGS. 5 and 7 of the Application.

Claim 32

We propose to amend Claim 32 to also include elements substantially identical to the elements of Claims 11, 19, and/or 26, depending on the Examiner’s agreeability.

Claims 20-23

We propose to cancel Claims 20-23.